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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/809,904

03/26/2004

Mitsuaki Oshima

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27890 7590 12/16/2008
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EXAMINER

AGWUMEZIE, CHARLES C

ART UNIT

PAPER NUMBER

3685

MAIL DATE

DELIVERY MODE

12/16/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|---|--------------------------------------|--|
| Office Action Summary | Application No. 10/809,904 | Applicant(s) OSHIMA ET AL. | |
| | Examiner CHARLES C. AGWUMEZIE | Art Unit 3685 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 39-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/26/04; 01/11/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 16, 2008 has been entered.

Acknowledgments

2. Applicants' amendment filed on September 23, 2008 is acknowledged. Accordingly claims 39-42 remain pending.

Terminal Disclaimer

3. The terminal disclaimer filed on July 10, 2008 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S Patent No. 6,081,785 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 39-42**, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sekiguchi et al (hereinafter "Sekiguchi") U.S. Patent No. 5,253,241 in view of Fujiwara et al (hereinafter "Fujiwara") U.S. Patent No. 5,251,011.

6. As per **claims 39 and 41**, Sekiguchi discloses an optical disk comprising:

a first recording area for recording information (see fig. 6, which discloses recording area 1; see col. 5, lines 15-40);

a second recording area located within said first recording area and having auxiliary information including disk identification information unique to said optical disk recorded therein, wherein said second recording area comprises circumferentially arranged multiple stripe patterns, each stripe of which extends along a radius of the disk (see fig. 6, which discloses recording area 2; see col. 5, lines 15-40);

a control data area located within said first recording area (see fig. 2; which discloses recording control signal; col. 5, lines 40-55); and

an auxiliary information presence indicator indicating presence of said auxiliary information in said control data area (see fig. 7; which discloses auxiliary signal amplitude detector; col. 5, lines 40-55, which discloses detecting the amplitude of the auxiliary signals),

wherein said stripe patterns have a lower reflectivity than an average reflectivity of an area between one stripe pattern and another stripe pattern.

7. What Sekiguchi did not explicitly teach is:

wherein said stripe patterns have a lower reflectivity than an average reflectivity of an area between one stripe pattern and another stripe pattern. Sekiguchi however discloses the concept of reading an information signal on the basis of the resultant reflected beam from the optical reproduction disk

8. Fujiwara discloses:

wherein said stripe patterns have a lower reflectivity than an average reflectivity of an area between one stripe pattern and another stripe pattern (col. 2, lines 30-40, which discloses that the surface has a high contrast reflectance which varies from place to place...).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sekiguchi and incorporate the method, wherein said stripe patterns have a lower reflectivity than an average reflectivity of an area between one stripe pattern and another stripe pattern in view of the teachings of Fujiwara since the claimed invention is merely a combination of old and known elements, and in the combination each element merely would have performed the same function as it separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

9. As per **claims 40**, Sekiguchi further discloses the optical disk, wherein said second recording area is recorded at a lower frequency than in an area of said first

recording area other than said second recording area (col. 4, lines 20-45, which discloses having different frequency components from one another).

10. As per **claim 42**, Sekiguchi further discloses the reproducing method, wherein the detecting the signal of said second recording area comprises:

separating with a low pass filter said reproducing signal of said second recording area and a reproducing signal of an area of said first recording area other than said second recording area (col. 5, lines 55-60; col. 6, lines 2-20)

Conclusion

11. Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that the applicant, in preparing the responses, fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Charles C.L. Agwumezie** whose number is **(571) 272-6838**. The examiner can normally be reached on Monday – Friday 8:00 am – 5:00 pm.

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2. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Calvin Hewitt** can be reached on **(571) 272 – 6709**.

3. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charlie C Agwumezie/
Primary Examiner, Art Unit 3685
December 12, 2008